



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 288-98

4 October 1999

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Endocrinology ltr 1210D, 4 Jan 99
(3) NCPB ltr 5420 SER:99-44, 21 Jul 99
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that she was not released from active duty on 30 September 1995.

2. The Board, consisting of Ms. Moidel, and Messrs. Bartlett and Schultz, reviewed Petitioner's allegations of error and injustice on 16 September 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner underwent a pre-separation physical examination on 16 September 1995. The examining physician noted a fullness in Petitioner's thyroid gland, and recommended that Petitioner undergo an ultrasound examination of the thyroid. Inexplicably, the physician determined that Petitioner was physically qualified for separation from the Navy, notwithstanding the pending ultrasound examination. The ultrasound examination was completed on 10 October 1995, and a complex mass was noted in the right lobe. It was recommended that Petitioner undergo a nuclear medicine thyroid scan to determine whether the mass was malignant or benign. Petitioner and the physician state that neither was

advised of those results or the recommendation for further evaluation. During February 1997, a civilian physician confirmed that the mass was malignant, and that the cancer had metastasized.

d. In correspondence attached as enclosure (2), the Specialty Advisor for Endocrinology and Metabolism advised the Board, in effect, that it is most likely that Petitioner had thyroid cancer prior to her release from active duty. Had it been discovered at that time, she would have been placed on limited duty while undergoing treatment and transfer to the Temporary Disability Retired List.

e. In correspondence attached as enclosure (3), the Board was advised by the Director, Naval Council of Personnel Boards, in effect, that Petitioner should have been retained on active duty for evaluation and treatment of her condition. He recommended that her record be corrected to show that she was placed on the Temporary Disability Retired List effective 1 October 1995, with a disability rating of 100% for papillary thyroid cancer, right lobe, with lymph node metastases.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner was unfit by reason of physical disability when released from active duty on 30 September 1995. It finds that, in view of the very serious nature of the disability, the fact that it should have been diagnosed before she was released from active duty, and the increase in severity of the condition which occurred because of the delay in diagnosis, it would be in the interest of justice to correct her record to show that she was retained on active duty. Upon her return to an active duty status, she should undergo medical and physical evaluation board processing as soon as practicable to determine her present state of health and whether she remains unfit for duty.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that she was not released from active duty on 30 September 1995.

b. That Petitioner's naval record be further corrected to show that she continued to have served on active duty from 30 September 1995 to date.

c. That Petitioner be afforded evaluation by medical and physical evaluation boards as soon as practicable. Current address: 10685 Anna Marie Drive, Glen Allen, VA 23111.

d. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

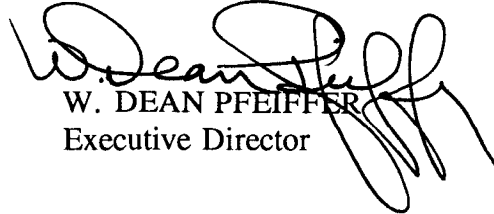
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder




JAMES R. EXNICIOS
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.



W. DEAN PFEIFFER
Executive Director

Reviewed and approved: OCT 18 1999



CHARLES L. TOMPKINS
Deputy Assistant Secretary
of the Navy for Personnel Programs